

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

Dustin Shirley, *on behalf of himself and
others similarly situated,*

Plaintiff,

v.

Rocket Mortgage, LLC,

Defendant.

Case No. 2:21-cv-13007-SFC-KGA

Hon. Judge Sean F. Cox
U.S. District Judge

Hon. Kimberly G. Altman
U.S. Magistrate Judge

DECLARATION OF MITCHELL VINER

I, Mitchell Viner, hereby declare and state as follows:

1. I am General Counsel of LMB OpCo, LLC, which is the parent company of LMB Mortgage Services, Inc. d/b/a LowerMyBills.com (“LMB”). I have held this position since October 22, 2012.

2. This Declaration is based upon my personal knowledge, my experience, knowledge and familiarity with LMB’s historic and current records and systems of records that are maintained in the ordinary course of LMB’s business, or information provided to me by other employees at LMB working under my direction and supervision. If called as a witness, I could and would testify competently as to the truth of the matters set forth herein.

3. Unless otherwise noted, the information in this Declaration relates to the period of August 1, 2021 through August 31, 2021.

4. LMB operates a free online financial resource center for consumers, and also offers a free referral service for consumers seeking home mortgage and refinance loans. As part of its free referral service for home mortgage financing, LMB identifies consumers who have indicated they are interested in or inquired about home mortgage or refinance loan options through LMB's website, LowerMyBills.com. LMB will then match consumers to one or more mortgage loan providers, such as Rocket Mortgage, LLC ("Rocket Mortgage"). Since prior to August 2021, LMB and Rocket Mortgage (f/k/a Quicken Loans, LLC) have been affiliated companies, and shared the same parent company, RKT Holdings, LLC.

5. When a consumer visits the LowerMyBills.com website, the consumer voluntarily enters various pieces of personal information, including his or her name, property address, phone number, email address, estimated home value, current interest rate, and amount of debt. The consumer is then given the option to consent to LMB sharing his or her contact information with LMB partners like Rocket Mortgage, and to consent to those partners contacting the consumer by phone or text message.

6. LMB provides Rocket Mortgage and its other partners with a home financing consumer's information only if the consumer, among other things, expresses his or her agreement to LMB's Terms of Use and provides his or her

written consent to calls or texts from Rocket Mortgage and other mortgage loan providers by pressing the submission button(s) on the LowerMyBills.com website.

7. If these (and other) requirements are met, LMB will then match the consumer to one or more mortgage loan providers that partner with LMB and provide the partner(s) with the information the consumer submitted at LowerMyBills.com. The consumer is informed before submitting his or her phone number at LowerMyBills.com that LMB's service is a referral service, and that the phone number and other information the consumer provides at LowerMyBills.com will be shared with LMB's affiliate Rocket Mortgage or other mortgage loan providers if the consumer consents to LMB doing so.

8. I have reviewed the Complaint in this case that Plaintiff Dustin Shirley has filed against Rocket Mortgage. In the Complaint, Plaintiff alleges that he was contacted on his cellular telephone number "817-XXX-7546" by Rocket Mortgage after August 15, 2021.

9. I have reviewed LMB company records maintained in the ordinary course of business relating to a phone number starting in "817" and ending in "7546." Those business records show that a consumer with the name "Dustin Shirley" and a telephone number matching the number identified in the Complaint navigated to and visited LowerMyBills.com on August 15, 2021. These business

records further show that Mr. Shirley entered the following information on the LowerMyBills.com website during the visit:

- a. Name: Dustin Shirley
- b. Phone Number: 817-507-7546
- c. Email: dustincshirley@gmail.com
- d. Property Address: 9208 Pepper Grass Dr., Fort Worth, TX 76131

Further, during his August 15, 2021 visit to LowerMyBills.com, Mr. Shirley also was presented with LMB's disclosures and hyperlinks to both (1) LMB's Terms of Use and (2) Rocket Mortgage's Terms of Use.

10. From my position as General Counsel of LMB, I am familiar with and have personal knowledge concerning the form, content and function of the LowerMyBills.com website at the time of Mr. Shirley's visit in August 2021, including the LMB disclosure language contained on the website at that time and the LMB Terms of Use featured on and accessible through hyperlinks available on the website at that time. Additionally, I also have personal knowledge that Rocket Mortgage's Terms of Use were featured on and accessible through various hyperlinks available on the LowerMyBills.com website at that time.

11. To prepare this Declaration, I reviewed LMB's business records kept in the ordinary course of business regarding how LowerMyBills.com existed and appeared on August 15, 2021 and the information Mr. Shirley provided during his

visit to the website on that date. In addition, I also reviewed screenshots that fairly and accurately depict what would have been presented, disclosed or available to Plaintiff when he navigated to the website in August 2021. LMB does not itself capture or retain in-session screenshots for individual consumer interactions. However, LMB's internal database maintains the data that a consumer enters during the information entry process on its website.

12. As detailed below, during his August 2021 visit, LMB's business records demonstrate that Mr. Shirley clicked a submission button confirming that he consented and agreed to LMB's Terms of Use on two separate occasions—the first submission button was labeled “Calculate” and the second labeled “Calculate your FREE results.” And by clicking the second submission button, Shirley also expressly agreed to be contacted by LMB or a member of its Provider Network, including Rocket Mortgage, “even if [he or his number was] on a corporate, state or national Do Not call Registry.”

13. Attached as **Exhibit 1** to this Declaration are true and correct copies of screenshots reflecting the website flow and information entry process that would have been presented to a consumer who (like Shirley) navigated to the LowerMyBills.com website on August 15, 2021. Shirley visited LowerMyBills.com on a mobile device, and Exhibit 1 hereto displays each page of the website through multiple screenshots.

14. All consumers, including Shirley, who visited LowerMyBills.com in August 2021 were presented with screens containing preliminary questions. After responding to the preliminary questions, consumers advance to a fourth page with additional questions requesting specific information such as employment status, the purpose of their intended refinance, their email address, and the subject property's address. Ex. 1 at 11.

15. After inputting responses to these questions, including his email address, Mr. Shirley clicked a submission button labeled "Calculate." Ex. 1 at 11 (enlarged at 12). The text immediately below this button expressly informed Shirley that: "By clicking the button above, you agree to be contacted by LowerMyBills, at the address entered above for promotional emails and consent, electronically via E-sign, to the LMB Lending Terms of Use, Privacy Policy, and Consent to Doing Business Electronically." *See id.* at 12 (call-out image of "Calculate" submission button and disclosure from page 11 of Exhibit).

16. As shown in Exhibit 1 hereto and in the screenshot below, the words "Terms of Use" and "Privacy Policy" on this page were underlined and appeared in blue text, contrasted from the surrounding language that appeared in gray text without underlining. "Terms of Use" and "Privacy Policy" appeared as hyperlinks on that page. Clicking on the words "Terms of Use" would take the consumer to LMB's Terms of Use, which included among other things a mandatory arbitration

provision and a list of LMB's clients from whom consumers were consenting to be contacted including Quicken Loans (n/k/a Rocket Mortgage).



17. In August of 2021, if a consumer completed the initial questions on LowerMyBills.com and clicked the "Calculate" button on the penultimate screen, then the consumer would be taken to a final webpage. Ex. 1 at 15 (enlarged at 16). On that final page, Mr. Shirley was provided with the option to enter his name and provide a contact phone number in order to receive referrals for mortgage loan providers. Mr. Shirley chose to do so and entered the name "Dustin Shirley" and telephone number identified in the Complaint. To submit his information and receive results, Mr. Shirley had to click on a submission button labeled "Calculate your FREE results."

18. As shown in Exhibit 1 (at 15, 16, and 17) and the screenshot below, directly below this submission button was an express disclosure from LMB informing Mr. Shirley that clicking the submission button constituted his agreement LMB's Terms of Use:

Calculate your FREE results ➤

By clicking the button above, you express your understanding and consent, electronically via E-sign, to the following:

1. To be matched with, and contacted by, up to 5 participants in the [LMB Provider Network](#) about mortgage and financial services products, and consent (not required as a condition to purchase a good/service) for us and them to contact you for marketing purposes (including through the use of an automatic telephone dialing system, artificial or prerecorded means) via telephone or text at the phone number provided above (including SMS and MMS), and email, even if you are on a corporate, state or national Do Not call Registry. You may revoke your consent at any time. You agree that LMB, Core Digital Media, and [Rocket Mortgage](#) can share your personal data and contact information with third parties, such as mortgage partners, partner companies, and other affiliates, and that these parties may use your personal data and contact information for marketing and analytics, and to make your experience easier. As an alternative, you may contact us by email at customercare@coredigital.com.

2. To the LMB Lending [Terms of Use](#), [Privacy Policy](#), and Consent to Doing Business Electronically.

19. Clicking on the words “Terms of Use”, which were hyperlinked and underlined and in blue text as compared to the surrounding language which appeared in gray text without underlining, again would take the consumer to the Terms of Use.

20. Attached as **Exhibit 2** to this Declaration is a true and correct copy of LMB’s Terms of Use that were used in August 2021. A consumer who clicked on a “Terms of Use” hyperlink at the LowerMyBills.com website in August 2021 would have been directed to a webpage containing these Terms of Use.

21. As shown in **Exhibit 2** (on the first page at ¶ 2), in August 2021, LMB's Terms of Use had a mandatory arbitration provision, which required that all disputes with LMB or its parents, affiliates, subsidiaries or related companies shall be resolved through binding arbitration.

22. As with the Terms of Use, clicking on the words "LMB Provider Network," which were hyperlinked and underlined and in blue text as compared to the surrounding language which appeared in gray text without underlining, would take the consumer to a list of lenders in LMB's network, which included Quicken Loans (n/k/a Rocket Mortgage). Attached as **Exhibit 3** to this Declaration is a true and correct copy of LMB's Provider Network that was displayed to consumers in August of 2021.

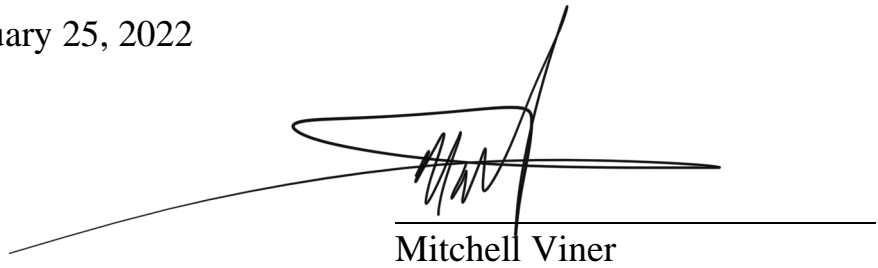
23. After clicking "Calculate your FREE results," Shirley was presented with a webpage notifying him that LMB matched him with Quicken Loans (n/k/a Rocket Mortgage).

24. In addition to the LMB Terms of Use and disclosure language detailed above, Rocket Mortgage's Terms of Use were also displayed and available to Shirley through hyperlinks throughout his use of the LowerMyBills.com website. A consumer who clicked on the Rocket Mortgage "Terms of Use" hyperlink from the LowerMyBills.com webpage during August 2021 (e.g., Ex. 1 at 10) would have been directed to a RocketMortgage.com webpage containing those Terms of Use.

25. Finally, disclosures demonstrating LMB's affiliation with Rocket Mortgage were prominently displayed near the bottom of several data-entry pages of the LowerMyBills.com website in August 2021. Ex. 1 at 9 (enlarged at 10), 11 (enlarged at 13), and 14 (enlarged at 17). This section of each page disclosed to consumers that "Data is collected by LowerMyBills on behalf of Rocket Mortgage." Hyperlinks to Rocket Mortgage's Security and Privacy Policy, Disclosures and Licenses, and Terms of Use were also presented to the consumer in this area of the screen.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 25, 2022

A handwritten signature in black ink, appearing to read "Mitchell Viner", is written over a horizontal line. The signature is stylized with a large, sweeping loop on the left and a vertical stroke on the right.

Mitchell Viner